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REDACTED FOR PUBLIC INSPECTION

EX PARTE OR LATE FILED

ORIGINAL

June 23, 2017

Accepted / Filed

JUN 23 2017

VIA ELECTRONIC FILING AND HAND-DELIVERY

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Federal Communications Commission
Office of the Secretary

Re: Structures and Practices of the Video Relay Service Program, CG Docket No. 10-51; Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123

Dear Ms. Dortch,

In accordance with the *Second Protective Order* in the above-captioned proceedings, ZVRS Holding Company ("ZVRS Holding"), the parent of CSDVRS, LLC d/b/a ZVRS ("ZVRS") and Purple Communications, Inc. ("Purple"), herein submits Highly Confidential and redacted versions of the attached *ex parte* letter in the above-captioned proceedings.

ZVRS Holding has designated for Highly Confidential treatment the marked portions of the attached documents pursuant to the *Second Protective Order* in CG Docket Nos. 03-123 and 10-51.¹ ZVRS Holding's *ex parte* letter includes granular data with respect to ZVRS and Purple's past, current and future costs. These materials fall under Item 3 in Appendix A of the *Second Protective Order*: "Information that provides granular information about a Submitting Party's past, current or future costs, revenues, marginal revenues, or market share, and future dividends."

Pursuant to the *Second Protective Order* and additional instructions from Commission staff, ZVRS Holding is filing a redacted version of the document electronically via ECFS, one copy of the Highly Confidential version with the Secretary, two copies of the redacted version with the Secretary, and sending copies of the Highly Confidential version to Eliot Greenwald, Robert Aldrich, and Michael Scott of the Consumer and Governmental Affairs Bureau and the TRS Reports mailbox.

¹ *Structures and Practices of the Video Relay Service Program; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Second Protective Order, DA 12-858, 27 FCC Rcd. 5914 (Cons. & Gov't Affs. Bur. 2012).

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Please contact me if you have any questions or require any additional information.

Sincerely,

/s/

Gregory Hlibok
Chief Legal Officer
ZVRS Holding Company
Parent company of CSDVRS, LLC d/b/a
ZVRS and Purple Communications, Inc.
595 Menlo Drive
Rocklin, CA 95765

Attachment

cc: Eliot Greenwald
Robert Aldrich
Michael Scott
TRSReports@fcc.gov



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June 23, 2017

VIA ELECTRONIC FILING AND HAND DELIVERY

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Re: Notice of Ex Parte Presentation: CG Docket Nos. 10-51 and 03-123

Dear Ms. Dortch,

On June 23, 2017, Sherri Turpin, Chief Executive Officer, and Michael Flanagan, Chief Financial Officer (via phone) for ZVRS Holding Company (“ZVRS Holding”), parent company of CSDVRS, LLC d/b/a ZVRS (“ZVRS”) and Purple Communications, Inc. (“Purple”) (collectively, the “Companies”), together with former FCC Commissioner Harold Furchtgott-Roth and outside counsel Jennifer Richter and Gregory Simon, met with Nicholas Degani, Senior Counsel, and Zenji Nakazawa, Public Safety and Consumer Protection Advisor to Chairman Ajit Pai, to discuss the Further Notice of Proposed Rulemaking in the above-referenced proceedings.¹ In the meeting, Turpin emphasized that the Commission should consider: (1) ZVRS and Purple’s corrected historical costs of providing service; and (2) retroactive application of the new Video Relay Service (“VRS”) compensation rates for the Emergent tier and Tiers I and II.

First, Degani inquired about ZVRS and Purple’s historical cost data dating back to 2013. Turpin explained that in February 2017, following a Rolka Loube Associates LLC (“Rolka Loube”) audit finding that both ZVRS and Purple had erroneously allocated marketing costs under the “Outreach” category in their 2015 cost submissions, ZVRS and Purple filed updated reports correcting this misallocation on March 6, 2017 and March 7, 2017, respectively. At the time, however, the Companies were not asked to re-file their cost data for any years other than 2015. To ensure that the Commission has before it the most complete and accurate data with respect to the Companies’ costs over the course of the glide path and projected over the next two years, below (and in the attached exhibits) are the actual compensable costs from 2013 to 2016 and the projected costs for 2017 and 2018 for ZVRS and Purple, both individually and together.

¹ *Structure and Practices of the VRS Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, Notice of Inquiry, Further Notice of Proposed Rulemaking, and Order, 32 FCC Rcd. 2436 (Mar. 23, 2017) (“FNPRM”).

*** BEGIN HIGHLY CONFIDENTIAL ***

Year	ZVRS Per-Minute Compensable Costs	Purple Per-Minute Compensable Costs	Combined Per-Minute Compensable Costs
2013			
2014			
2015			
2016			
2017 (projected)			
2018 (projected)			

*** END HIGHLY CONFIDENTIAL ***

Second, Turpin reiterated that for the reasons explained in the Companies' June 21, 2017 *ex parte* letter, the Commission has the legal authority to apply the new rates for the Emergent tier and Tiers I and II retroactive to January 1, 2017.² The proposal to apply the rates retroactively was the subject of notice and comment in this rulemaking, and it is supported by sound Commission policy and precedent.³ As the Commission acknowledges, on numerous occasions, the Commission and the Consumer & Governmental Affairs Bureau have applied adjustments to TRS rates and contribution factors retroactively to the beginning of a Fund Year.⁴ For example, in its 2016 *VRS Partial Rate Freeze Order*, the Commission applied TRS compensation rates retroactive to the beginning of the 2015-2016 Fund Year.⁵ The Commission concluded that retroactive application of a \$5.29 per minute compensation rate to the smallest VRS providers "will generally provide a reasonable level of support for the operations of the smallest VRS providers and will not risk providing significant overcompensation for such providers," would "not impose a heavy cost burden on the TRS Fund," and "allows the smallest VRS providers the opportunity to achieve market share growth and improvements in efficiency while benefitting from further implementation of structural reforms" that would address interoperability and other matters.⁶

² See Letter from Gregory Hlibok, Chief Legal Officer, ZVRS Holding Company, to Marlene H. Dortch, Secretary, FCC, CG Docket Nos. 10-51 & 03-123 (filed June 21, 2017).

³ See *FNPRM* at para. 102 & n.247.

⁴ See *id.*, citing *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order on Reconsideration, 21 FCC Rcd. 8050, 8056, paras. 12-13 (2006); Memorandum Opinion and Order, 21 FCC Rcd. 8063, 8072-73, para. 21 (2006); Report and Order, 31 FCC Rcd. 2339, 2344-45, paras. 12-14 (2016) ("*VRS Partial Rate Freeze Order*").

⁵ See *VRS Partial Rate Freeze Order*, 31 FCC Rcd. at 2344-45, paras. 12-14.

⁶ *Id.*

The Commission's rationale for its retroactively applying the rates in the *VRS Partial Rate Freeze Order* also applies here. Specifically, retroactive treatment of the new rates for the Emergent tier and Tiers I and II will support the non-dominant VRS providers, will not risk providing overcompensation to them because they are all operating at a loss, will not impose a heavy cost burden on the Fund, and will allow the non-Dominant Providers the opportunity to achieve market share growth while waiting for further implementation of structural reforms and interoperability, which still have not been implemented by the Commission. Accordingly, the Commission should provide retroactive compensation to help the non-dominant VRS providers recover losses incurred under the glide path, either by applying new rates retroactive to January 1, 2017 or by building that recovery into the prospective rates for the Emergent tier, Tiers I and II.

Please contact me if you have any questions or require any additional information.

Respectfully submitted,

/s/

Gregory Hlibok
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ZVRS Holding Company
595 Menlo Drive
Rocklin, CA 95765

Attachment

cc: Nicholas Degani
Zenji Nakazawa

ATTACHMENT

REDACTED IN ITS ENTIRETY